

AMENDED IN SENATE AUGUST 5, 2010

AMENDED IN SENATE JUNE 16, 2010

AMENDED IN SENATE MAY 27, 2010

AMENDED IN ASSEMBLY JANUARY 25, 2010

AMENDED IN ASSEMBLY JANUARY 13, 2010

AMENDED IN ASSEMBLY JANUARY 6, 2010

AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1178

Introduced by Assembly Member ~~Torres~~ Portantino

February 27, 2009

An act to add Section 107.10 to amend Sections 17072, 17215, 17220, 19184, 19774, and 23701i of, to amend and repeal Sections 17131.4, 17131.5, 17215.1, and 17215.4 of, and to add Sections 17131.7, 17131.9, 17131.10, 17131.11, 17131.12, 17131.13, 17131.14, 17134.1, 17138.7, 17201.1, 17217, 17201.8, 17222.1, 24343.6, and 24345.1 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as amended, ~~Torres~~ Portantino. ~~Property taxation: possessory interests: publicly owned low-income housing. Income taxes: federal conformity: Patient Protection and Affordable Care Act: Health Care and Education Reconciliation Act of 2010: health savings accounts.~~

The Personal Income Tax Law and the Corporation Tax Law, in specified conformity with federal income tax laws, provide certain gross income exclusions, impose specified tax rates, and allow various deductions and credits in computing the income that is subject to the taxes imposed by those laws, as specified.

This bill would, under both laws, provide additional conformity with federal income tax laws by adopting specified provisions of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 relating to gross income exclusions for reimbursements for medical care expenses under specified plans for dependents, Indian health care benefits, free choice vouchers, participants in the National Health Service Corps, student loan repayments, adoption assistance, therapeutic discovery project credits, annual fees on branded prescriptions, unreimbursed medical expenses, hospital insurance tax, cafeteria plans, the economic substance doctrine and related penalties, and tax rates on distributions from a nonqualified medical savings accounts, as specified.

The Personal Income Tax Law authorizes various deductions in computing income that is subject to tax under that law.

This bill would allow a deduction in connection with health savings accounts in conformity with federal law for each taxable year beginning on or after January 1, 2013. In general, the deduction would be an amount equal to the aggregate amount paid in cash during the taxable year by, or on behalf of, an eligible individual, as defined, to a health savings account of that individual, as provided. This bill would also provide related conformity to that federal law for each taxable year beginning on or after January 1, 2013, with respect to treatment of the account as a tax-exempt trust, the allowance of rollovers from Archer Medical Savings Accounts, health flexible spending arrangements, or health reimbursement accounts to a health savings account, and penalties in connection therewith.

This bill would take effect immediately as a tax levy.

~~Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive.~~

~~This bill would clarify, for purposes of the definition of a taxable possessory interest, that the possession or use of publicly owned low-income housing by low-income tenants, as defined, is not~~

~~independent. This bill would state that its provisions are declaratory of existing law.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 17072 of the Revenue and Taxation Code*
2 *is amended to read:*

3 17072. (a) Section 62 of the Internal Revenue Code, relating
4 to adjusted gross income defined, shall apply, except as otherwise
5 provided.

6 (b) Section 62(a)(2)(D) of the Internal Revenue Code, relating
7 to certain expenses of elementary and secondary school teachers,
8 shall not apply.

9 (c) *The deduction allowed by Section 17217 shall be allowed*
10 *in computing adjusted gross income.*

11 (d) *The amendments made to this section by the act adding this*
12 *subdivision shall apply only to each taxable year beginning on or*
13 *after January 1, 2013.*

14 *SEC. 2. Section 17131.4 of the Revenue and Taxation Code is*
15 *amended to read:*

16 17131.4. (a) Section 106(d) of the Internal Revenue Code,
17 relating to contributions to health savings accounts, shall not apply.

18 (b) *This section shall apply to taxable years beginning on or*
19 *after January 1, 2005, and before January 1, 2013.*

20 (c) *This section shall remain in effect only until December 1,*
21 *2013, and as of that date is repealed.*

22 *SEC. 3. Section 17131.5 of the Revenue and Taxation Code is*
23 *amended to read:*

24 17131.5. (a) Section 125(d)(2)(D) of the Internal Revenue
25 Code, relating to the exception for health savings accounts, shall
26 not apply.

27 (b) *This section shall apply to taxable years beginning on or*
28 *after January 1, 2005, and before January 1, 2013.*

29 (c) *This section shall remain in effect only until December 1,*
30 *2013, and as of that date is repealed.*

31 *SEC. 4. Section 17131.7 is added to the Revenue and Taxation*
32 *Code, to read:*

1 17131.7. (a) Section 105(b) of the Internal Revenue Code,
2 relating to amounts expended for medical care, as amended by
3 Section 1004(d)(1) of the Health Care and Education
4 Reconciliation Act of 2010 (Public Law 111-152), shall apply,
5 except as otherwise provided.

6 (b) This section shall apply in the same manner and to the same
7 periods as the federal amendments referred to in subdivision (a)
8 apply for federal purposes, except as otherwise provided.

9 SEC. 5. Section 17131.9 is added to the Revenue and Taxation
10 Code, to read:

11 17131.9. For taxable years beginning on or after January 1,
12 2011, Section 106(f) of the Internal Revenue Code, relating to
13 reimbursements for medicine restricted to prescribed drugs and
14 insulin, as added by Section 9003(c) of the Patient Protection and
15 Affordable Care Act (Public Law 111-148), shall apply, except as
16 otherwise provided.

17 SEC. 6. Section 17131.10 is added to the Revenue and Taxation
18 Code, to read:

19 17131.10. (a) For taxable years beginning on or after January
20 1, 2014, Section 125(f) of the Internal Revenue Code, relating to
21 qualified benefits defined, as amended by Section 1515 of the
22 Patient Protection and Affordable Care Act (Public Law 111-148),
23 shall apply, except as otherwise provided.

24 (b) For taxable years beginning on or after January 1, 2013,
25 Section 125(i) of the Internal Revenue Code, relating to limitation
26 on health flexible spending arrangements, as added by Section
27 9005 of the Patient Protection and Affordable Care Act (Public
28 Law 111-148) and amended by Section 10902 of the Patient
29 Protection and Affordable Care Act (Public Law 111-148) and
30 Section 1403 of the Health Care and Education Reconciliation
31 Act of 2010 (Public Law 111-152), shall apply, except as otherwise
32 provided.

33 (c) For taxable years beginning on or after January 1, 2011,
34 Section 125(j) of the Internal Revenue Code, relating to simple
35 cafeteria plans for small businesses, as added by Section 9022 of
36 the Patient Protection and Affordable Care Act (Public Law
37 111-148), shall apply, except as otherwise provided.

38 SEC. 7. Section 17131.11 is added to the Revenue and Taxation
39 Code, to read:

1 17131.11. For taxable years beginning on or after January 1,
2 2010, Section 137 of the Internal Revenue Code, relating to
3 adoption assistance programs, as amended by Section 10909(a)(2)
4 of the Patient Protection and Affordable Care Act (Public Law
5 111-148), shall apply, except as otherwise provided.

6 SEC. 8. Section 17131.12 is added to the Revenue and Taxation
7 Code, to read:

8 17131.12. (a) Section 139D of the Internal Revenue Code,
9 relating to Indian health care benefits, as added by Section 9021
10 of the Patient Protection and Affordable Care Act (Public Law
11 111-148), shall apply, except as otherwise provided.

12 (b) This section shall apply to benefits and coverage provided
13 after March 23, 2010.

14 (c) No inference shall be made with respect to the enactment
15 the act adding this section with respect to the exclusion from gross
16 income of benefits provided by either an Indian tribe or tribal
17 organization that are not within the scope of this section or were
18 provided prior to March 23, 2010.

19 SEC. 9. Section 17131.13 is added to the Revenue and Taxation
20 Code, to read:

21 17131.13. For taxable years beginning on or after January 1,
22 2014, Section 139D of the Internal Revenue Code, relating to free
23 choice vouchers, as added by Section 10108(f) of the Patient
24 Protection and Affordable Care Act (Public Law 111-148), shall
25 apply, except as otherwise provided.

26 SEC. 10. Section 17131.14 is added to the Revenue and
27 Taxation Code, to read:

28 17131.14. (a) Any grant made in any year by the Secretary of
29 the Treasury under Section 9023(e) of the Patient Protection and
30 Affordable Care Act (Public Law 111-148), to a person that places
31 in service qualified therapeutic discovery project property, shall
32 not be includable in the gross income or the alternative minimum
33 taxable income of the taxpayer.

34 (b) This section shall apply in the same manner and to the same
35 periods as the provisions of federal law referred to in subdivision
36 (a) apply for federal purposes, except as otherwise provided.

37 SEC. 11. Section 17134.1 is added to the Revenue and Taxation
38 Code, to read:

39 17134.1. For taxable years beginning on or after January 1,
40 2010, Section 108(f)(4) of the Internal Revenue Code, relating to

1 *payments under the National Health Service Corps loan repayment*
2 *program and certain state loan repayment programs, as amended*
3 *by Section 10908 of the Patient Protection and Affordable Care*
4 *Act (Public Law 111-148), shall apply, except as otherwise*
5 *provided.*

6 *SEC. 12. Section 17138.7 is added to the Revenue and Taxation*
7 *Code, to read:*

8 *17138.7. For each taxable year beginning on or after January*
9 *1, 2013, Section 106 of the Internal Revenue Code, as amended*
10 *by Section 302 of the Tax Relief and Health Care Act of 2006*
11 *(Public Law 109-432), relating to health savings accounts, shall*
12 *apply, except as otherwise provided.*

13 *SEC. 13. Section 17201.1 is added to the Revenue and Taxation*
14 *Code, to read:*

15 *17201.1. (a) Section 162(l)(1) of the Internal Revenue Code,*
16 *relating to allowance of deduction, as amended by Section*
17 *1004(d)(2) of the Health Care and Education Reconciliation Act*
18 *of 2010 (Public Law 111-152), shall apply, except as otherwise*
19 *provided.*

20 *(b) Section 162(l)(2)(B) of the Internal Revenue Code, relating*
21 *to other coverage, as amended by Section 1004(d)(3) of the Health*
22 *Care and Education Reconciliation Act of 2010 (Public Law*
23 *111-152), shall apply, except as otherwise provided.*

24 *(c) This section shall apply in the same manner and to the same*
25 *periods as the federal amendments referred to in subdivision (a)*
26 *or subdivision (b), respectively, apply for federal purposes, except*
27 *as otherwise provided.*

28 *SEC. 14. Section 17201.8 is added to the Revenue and Taxation*
29 *Code, to read:*

30 *17201.8. For taxable years beginning on or after January 1,*
31 *2013, Section 213 of the Internal Revenue Code, relating to*
32 *medical, dental, etc., expenses, as amended by Section 9013 of the*
33 *Patient Protection and Affordable Care Act (Public Law 111-148),*
34 *shall apply, except as otherwise provided.*

35 *SEC. 15. Section 17215 of the Revenue and Taxation Code is*
36 *amended to read:*

37 *17215. (a) Section 220(a) of the Internal Revenue Code,*
38 *relating to deduction allowed, is modified to provide that the*
39 *amount allowed as a deduction shall be an amount equal to the*
40 *amount allowed to that individual as a deduction under Section*

1 220 of the Internal Revenue Code, relating to medical savings
2 accounts, on the federal income tax return filed for the same taxable
3 year by that individual.

4 *(b) For taxable years beginning on or after January 1, 2011,*
5 *Section 220(d)(2)(A) of the Internal Revenue Code, as amended*
6 *by Section 9003(b) of the Patient Protection and Affordable Care*
7 *Act (Public Law 111-148), shall apply, except as otherwise*
8 *provided.*

9 ~~(b)~~
10 *(c) Section 220(f)(4) of the Internal Revenue Code, relating to*
11 *additional tax on distributions not used for qualified medical*
12 *expenses, is modified by substituting “10 percent” in lieu of for*
13 *“15 percent.”*

14 *(d) For taxable years beginning on or after January 1, 2011,*
15 *Section 220(f)(4) of the Internal Revenue Code, relating to*
16 *additional tax on distributions not used for qualified medical*
17 *expenses, as amended by Section 9004 of the Patient Protection*
18 *and Affordable Care Act (Public Law 111-148), is modified by*
19 *substituting “12.5 percent” for “20 percent.”*

20 *SEC. 16. Section 17215.1 of the Revenue and Taxation Code*
21 *is amended to read:*

22 17215.1. *(a) Section 220(f)(5) of the Internal Revenue Code,*
23 *relating to rollover contributions, shall not apply.*

24 *(b) This section shall apply to taxable years beginning on or*
25 *after January 1, 2005, and before January 1, 2013.*

26 *(c) This section shall remain in effect only until December 1,*
27 *2013, and as of that date is repealed.*

28 *SEC. 17. Section 17215.4 of the Revenue and Taxation Code*
29 *is amended to read:*

30 17215.4. *(a) Section 223 of the Internal Revenue Code, relating*
31 *to health savings accounts, shall not apply.*

32 *(b) This section shall apply to taxable years beginning on or*
33 *after January 1, 2005, and before January 1, 2013.*

34 *(c) This section shall remain in effect only until December 1,*
35 *2013, and as of that date is repealed.*

36 *SEC. 18. Section 17217 is added to the Revenue and Taxation*
37 *Code, to read:*

38 17217. *For each taxable year beginning on or after January*
39 *1, 2013, all of the following shall apply:*

1 (a) Section 223 of the Internal Revenue Code, as amended by
2 Section 404(c) of the Gulf Opportunity Zone Act of 2005 (Public
3 Law 109-135), as amended by Title III of the Tax Relief and Health
4 Care Act of 2006 (Public Law 109-432), relating to health savings
5 accounts, shall apply, except as otherwise provided.

6 (b) Section 223(e)(1) of the Internal Revenue Code shall be
7 modified by substituting the phrase “Section 17651” for the phrase
8 “section 511 (relating to imposition of tax of unrelated business
9 income of charitable, etc., organizations),” contained therein.

10 (c) Section 223(f)(4)(A) of the Internal Revenue Code shall be
11 modified by substituting “2 $\frac{1}{2}$ percent” for “10 percent,” contained
12 therein.

13 SEC. 19. Section 17220 of the Revenue and Taxation Code is
14 amended to read:

15 17220. (a) Section 164(a)(3) of the Internal Revenue Code,
16 relating to the deductibility of state, local, and foreign income, war
17 profits, and excess profits taxes, shall not apply.

18 (b) Section 164(b)(5) of the Internal Revenue Code, relating to
19 general sales taxes, shall not apply.

20 (c) In addition to the provisions of Section 164(c) of the Internal
21 Revenue Code, relating to deduction denied in case of certain
22 taxes, no deduction shall be allowed for any tax imposed under
23 Chapter 10.5 (commencing with Section 17935), Chapter 10.6
24 (commencing with Section 17941), or Chapter 10.7 (commencing
25 with Section 17951) of this part or under Part 11 (commencing
26 with Section 23001).

27 (d) For taxable years beginning on or after January 1, 2013,
28 Section 164(f) of the Internal Revenue Code, relating to deduction
29 for one-half of self-employment taxes, as amended by Sections
30 9015(b) and 10906(b) of the Patient Protection and Affordable
31 Care Act (Public Law 111-148), shall apply, except as otherwise
32 provided.

33 SEC. 20. Section 17222.1 is added to the Revenue and Taxation
34 Code, to read:

35 17222.1. For taxable years beginning on or after January 1,
36 2011, no deduction shall be allowed for the fees imposed on
37 manufacturers or importers of branded prescription drugs by
38 Section 9008 of the Patient Protection and Affordable Care Act
39 (Public Law 111-148), as amended by Section 1404 of the Health

1 *Care and Education Reconciliation Act of 2010 (Public Law*
2 *111-152).*

3 *SEC. 21. Section 19184 of the Revenue and Taxation Code is*
4 *amended to read:*

5 19184. (a) A penalty of fifty dollars (\$50) shall be imposed
6 for each failure, unless it is shown that the failure is due to
7 reasonable cause, by any person required to file who fails to file
8 a report at the time and in the manner required by any of the
9 following provisions:

10 (1) Subdivision (c) of Section 17507, ~~relating to individual~~
11 ~~retirement accounts.~~

12 (2) Section 220(h) of the Internal Revenue Code, relating to
13 medical savings accounts for taxable years beginning on or after
14 January 1, 1997.

15 (3) *Section 223(h) of the Internal Revenue Code.*

16 ~~(3)~~

17 (4) Subdivision (b) of Section 17140.3 or subdivision (b) of
18 Section 23711 ~~relating to qualified tuition programs.~~

19 ~~(4)~~

20 (5) Subdivision (e) of Section 23712, ~~relating to Coverdell~~
21 ~~education savings accounts.~~

22 (b) (1) Any individual who *satisfies both of the following*
23 *conditions:*

24 (A) Is required to furnish information under Section 17508 as
25 to the amount designated nondeductible contributions made for
26 any taxable year, ~~and.~~

27 (B) Overstates the amount of those contributions made for that
28 taxable year, shall pay a penalty of one hundred dollars (\$100) for
29 each overstatement unless it is shown that the overstatement is due
30 to reasonable cause.

31 (2) Any individual who fails to file a form required to be filed
32 by the Franchise Tax Board under Section 17508 shall pay a
33 penalty of fifty dollars (\$50) for each failure unless it is shown
34 that the failure is due to reasonable cause.

35 (c) Article 3 (commencing with Section 19031) of this chapter
36 (relating to deficiency assessments) shall not apply in respect of
37 the assessment or collection of any penalty imposed under this
38 section.

1 (d) *The amendments made to this section by the act adding this*
2 *subdivision shall apply only to each taxable year beginning on or*
3 *after January 1, 2013.*

4 SEC. 22. *Section 19774 of the Revenue and Taxation Code is*
5 *amended to read:*

6 19774. (a) If a taxpayer has a noneconomic substance
7 transaction understatement for any taxable year, there shall be
8 added to the tax an amount equal to 40 percent of the amount of
9 that understatement.

10 (b) (1) Subdivision (a) shall be applied by substituting “20
11 percent” for “40 percent” with respect to the portion of any
12 noneconomic substance transaction understatement with respect
13 to which the relevant facts affecting the tax treatment of the item
14 are adequately disclosed in the return or a statement attached to
15 the return.

16 (2) For taxable years beginning before January 1, 2003,
17 “adequately disclosed” includes the disclosure of the tax shelter
18 identification number on the taxpayer’s return as required by
19 subdivision (c) of Section 18628, as applicable for the year in
20 which the transaction was entered into.

21 (c) For purposes of this section:

22 (1) The term “noneconomic substance transaction
23 understatement” means any amount which would be an
24 understatement under Section 6662A(b) of the Internal Revenue
25 Code, as modified by subdivision (b) of Section 19164.5 if Section
26 6662A(b) of the Internal Revenue Code were applied by taking
27 into account items attributable to noneconomic substance
28 transactions rather than items to which Section 6662A(b) applies.

29 (2) A “noneconomic substance transaction”—~~includes the~~
30 ~~disallowance of any loss, deduction or credit, or addition to income~~
31 ~~attributable to a determination that the disallowance or addition is~~
32 ~~attributable to a transaction or arrangement that lacks economic~~
33 ~~substance including a transaction or arrangement in which an entity~~
34 ~~is disregarded as lacking economic substance. A transaction shall~~
35 ~~be treated as lacking economic substance if the taxpayer does not~~
36 ~~have a valid nontax California business purpose for entering into~~
37 ~~the transaction. includes:~~

38 (A) *The disallowance of any loss, deduction or credit, or*
39 *addition to income attributable to a determination that the*
40 *disallowance or addition is attributable to a transaction or*

1 *arrangement that lacks economic substance including a transaction*
 2 *or arrangement in which an entity is disregarded as lacking*
 3 *economic substance. A transaction shall be treated as lacking*
 4 *economic substance if the taxpayer does not have a valid nontax*
 5 *California business purpose for entering into the transaction.*

6 *(B) Any disallowance of claimed tax benefits by reason of a*
 7 *transaction lacking economic substance, within the meaning of*
 8 *Section 7701(o) of the Internal Revenue Code, relating to*
 9 *clarification of economic substance doctrine, as added by Section*
 10 *1409(a) of the Health Care and Education Reconciliation Act of*
 11 *2010 (Public Law 111-152), except as otherwise provided.*

12 *(i) For purposes of this subparagraph, the phrase “apart from*
 13 *state income tax effects” shall be substituted for the phrase “apart*
 14 *from federal income tax effects” in each place it appears in Section*
 15 *7701(o)(1) of the Internal Revenue Code.*

16 *(ii) For purposes of this subparagraph, the phrase “any federal*
 17 *or local income tax effect which is related to a state income tax*
 18 *effect shall be treated in the same manner as a state income tax*
 19 *effect” is substituted for the phrase “any state or local income tax*
 20 *effect which is related to a Federal income tax effect shall be*
 21 *treated in the same manner as a Federal income tax effect” in*
 22 *Section 7701(o)(3) of the Internal Revenue Code.*

23 *(d) (1) If the notice of proposed assessment of additional tax*
 24 *has been sent with respect to a penalty to which this section applies,*
 25 *only the Chief Counsel of the Franchise Tax Board may*
 26 *compromise all or any portion of that penalty.*

27 *(2) The exercise of authority under paragraph (1) shall be at the*
 28 *sole discretion of the Chief Counsel of the Franchise Tax Board*
 29 *and may not be delegated.*

30 *(3) Notwithstanding any other law or rule of law, any*
 31 *determination under this subdivision may not be reviewed in any*
 32 *administrative or judicial proceeding.*

33 *(e) Notwithstanding anything to the contrary in this section, if*
 34 *a penalty has been assessed for federal income tax purposes*
 35 *pursuant to Section 6662(b)(6) of the Internal Revenue Code, as*
 36 *added by Section 1409(a) of the Health Care and Education*
 37 *Reconciliation Act of 2010 (Public Law 111-152), on an*
 38 *underpayment attributable to the disallowance of claimed tax*
 39 *benefits by reason of a transaction lacking economic substance,*
 40 *then a penalty shall be imposed under this section for that portion*

1 of an understatement attributable to that transaction, and shall
2 not be abated unless the taxpayer can establish that the imposition
3 of the federal penalty under Section 6662 of the Internal Revenue
4 Code for an underpayment attributable to that transaction was
5 clearly erroneous.

6 (f) The amendments made to this section by the act adding this
7 subdivision shall apply to notices mailed on or after the effective
8 date of the act adding this subdivision.

9 SEC. 23. Section 23701i of the Revenue and Taxation Code is
10 amended to read:

11 23701i. (a) A voluntary employees' beneficiary association
12 described in Section 501(c)(9) of the Internal Revenue Code, as
13 amended by Section 1004(d)(4) of the Health Care and Education
14 Reconciliation Act of 2010 (Public Law 111-152).

15 (b) The amendments made to this section by the act adding this
16 subdivision shall apply in the same manner and to the same periods
17 as the federal amendments referred to in subdivision (a) apply for
18 federal purposes.

19 SEC. 24. Section 24343.6 is added to the Revenue and Taxation
20 Code, to read:

21 24343.6. For taxable years beginning on or after January 1,
22 2014, Section 162(a) of the Internal Revenue Code, as amended
23 by Section 10108(f) of the Patient Protection and Affordable Care
24 Act (Public Law 111-148), shall apply, except as otherwise
25 provided.

26 SEC. 25. Section 24345.1 is added to the Revenue and Taxation
27 Code, to read:

28 24345.1. For taxable years beginning on or after January 1,
29 2011, no deduction shall be allowed for fees imposed on
30 manufacturers or importers of branded prescription drugs by
31 Section 9008 of the Patient Protection and Affordable Care Act
32 (Public Law 111-148), as amended by Section 1404 of the Health
33 Care and Education Reconciliation Act of 2010 (Public Law
34 111-152).

35 SEC. 26. This act provides for a tax levy within the meaning
36 of Article IV of the Constitution and shall go into immediate effect.

37 SECTION 1. ~~The Legislature finds and declares all of the~~
38 ~~following:~~

39 (a) ~~The provision of housing is of vital statewide importance to~~
40 ~~the health, safety, and welfare of the residents of this state and the~~

1 ~~basic housing goal of the state is to provide a decent home and~~
2 ~~suitable living environment for every California family.~~

3 ~~(b) There is an urgent and continuing need to provide affordable~~
4 ~~housing to meet the increasingly unfulfilled housing needs of the~~
5 ~~state.~~

6 ~~(c) Private enterprise and investment cannot economically~~
7 ~~achieve the needed construction of decent, safe, and sanitary~~
8 ~~housing at rents or purchase prices which persons and families of~~
9 ~~lower income can afford.~~

10 ~~(d) State law establishes in every city and county a housing~~
11 ~~authority with the responsibility of addressing the lack of adequate~~
12 ~~housing for persons of lower income.~~

13 ~~(e) It is the policy of the state that each housing authority~~
14 ~~manage and operate its housing projects in an efficient manner so~~
15 ~~as to enable it to fix the rentals for dwelling accommodations at~~
16 ~~the lowest possible rates consistent with it providing decent, safe,~~
17 ~~and sanitary dwelling accommodations, and that no housing~~
18 ~~authority shall construct or operate any such project for profit, or~~
19 ~~as a source of revenue to the city or the county.~~

20 ~~(f) The purpose behind the taxation of possessory interests is~~
21 ~~to protect the public domain from private profit without tax~~
22 ~~liability.~~

23 ~~(g) The use of public housing by low-income persons is an~~
24 ~~essential public use of publicly owned property that serves only~~
25 ~~to benefit the government and is necessary to further a statewide~~
26 ~~public purpose, which can be distinguished from those types of~~
27 ~~private uses with a profit motive for which the possessory interest~~
28 ~~tax was intended to apply.~~

29 ~~SEC. 2. Section 107.10 is added to the Revenue and Taxation~~
30 ~~Code, to read:~~

31 ~~107.10. (a) For purposes of applying paragraph (1) of~~
32 ~~subdivision (a) of Section 107 to a lease of publicly owned~~
33 ~~low-income housing, the possession of, claim to, or right to the~~
34 ~~possession of, land or improvements is not independent if the lessee~~
35 ~~is a low-income tenant.~~

36 ~~(b) For purposes of this section, "low-income tenant" has the~~
37 ~~same meaning as "lower income households" as defined by Section~~
38 ~~50079.5 of the Health and Safety Code.~~

39 ~~SEC. 3. (a) It is the intent of the Legislature in enacting this~~
40 ~~act to provide legislative direction to county assessors, the State~~

1 ~~Board of Equalization, the courts, and other involved parties~~
2 ~~regarding the interpretation of the term “independent” as it relates~~
3 ~~to publicly owned low-income housing.~~
4 ~~(b) Section 107.10 of the Revenue and Taxation Code, as added~~
5 ~~by this act, does not constitute a change in, but rather, is declaratory~~
6 ~~of, existing law. Therefore, because this act is declaratory of~~
7 ~~existing law, no provision of state law, including, but not limited~~
8 ~~to, Section 8 of Article XVI of the California Constitution, requires~~
9 ~~reimbursement to any entity for any ad valorem property tax~~
10 ~~revenue losses that may result from this act.~~